

Massa Transcript

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2 Q. -- is that correct?

3 MS. DONNELLY: You can answer.

4 Q. Is that correct?

5 A. Only Ms. Loscalzo through this, but.

6 Q. No, I'm not talking about this. I
7 mean before this. Not including what -- what's
8 made in this lawsuit.

9 A. No.

10 Q. I mean, well, did Ms. Loscalzo ever
11 tell you that Mr. Meskunas had made the remarks
12 that she alleges she made in the complaint? And
13 I'm handing you the complaint to look at.

14 A. No.

15 Q. It goes on to the next page.

16 A. No.

17 Q. Okay. Ms. Loscalzo never told you
18 that Mr. Meskunas had made any of the comments
19 listed in paragraph eight of the amended
20 complaint; is that your testimony? That's
21 paragraph eight.

22 A. No.

23 Q. Okay. Let me see if I can refresh
24 your recollection. Wasn't there an occasion on
25 which you had a conversation with Ms. Loscalzo

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2 which she told you that Mr. Meskunas had made
3 remarks to her about her breasts and buttocks to
4 put it gently and you said to her, well, he
5 would never make those remarks to me because I'm
6 not good-looking enough?

7 MS. DONNELLY: Objection.

8 Q. Does that refresh your recollection?

9 A. No.

10 Q. You never had that conversation?

11 A. No.

12 Q. I see. Now, let me ask you
13 something, how big is the sales floor
14 approximately, the sales floor in the
15 dealership?

16 A. In square footage?

17 Q. Yeah, if you know.

18 A. I don't know exactly. It's pretty
19 big.

20 Q. All right. There was a time that
21 Anthony DeSimone worked at the dealership,
22 correct?

23 A. Yes.

24 Q. And what was his job?

25 A. F & I manager.

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Q. Did she send you a check for April?

3

A. I believe it was the same check. I
4 think it was a two-month payment.

5

Q. Okay. Let me show you what we marked
6 as Meskunas Exhibit 7 for identification --

7

A. Uhm-hum.

8

Q. -- and ask you if you recognize that
9 check and the note.

10

A. Yes, I do. I had to send it back to
11 her because she didn't date it.

12

Q. Right. And you did that with the
13 letter, right?

14

A. I did.

15

Q. And is Meskunas Exhibit 8 for
16 identification the letter that you sent?

17

A. Yes.

18

MS. DONNELLY: Well, look at it
19 first --

20

THE WITNESS: Okay. I'm sorry.

21

MS. DONNELLY: -- before you say yes.

22

THE WITNESS: Yes.

23

Q. Okay. And did Ms. Loscalzo send you
24 a replacement check or checks?

25

A. She signed that check and sent it

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2 bill?

3 MS. DONNELLY: Objection. You can
4 answer.

5 A. Yeah, their billing was -- was, I
6 don't know, delayed or sloppy or whatever, but
7 as far as I could see Ms. Loscalzo was still
8 active on the bill. Apparently when they
9 received the notice that she was off the Cobra
10 coverage in June they went back to February.
11 They referred to her termination date rather
12 than the termination of coverage.

13 Q. So am I correct that -- well,
14 withdraw that.

15 Is it your testimony that Ms.
16 Loscalzo did not send a check in for Cobra for
17 the month of June?

18 MS. DONNELLY: Objection. Not her
19 testimony.

20 MR. BERNBACH: No?

21 MS. DONNELLY: No.

22 Q. All right. Did Miss -- Ms. Loscalzo
23 sent a check you've identified for March and
24 April. Did she send in a check for May?

25 A. She did.

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2 Q. Okay. What happened to that check?

3 A. She sent that check after the -- she
4 sent that check after June 4th, which was past
5 the allowed period of time to be late with a
6 payment. She had 30 days from May 1st to send
7 that check in. It was mailed June 4th.

8 Q. How do you know?

9 A. Because it was postmarked June 4th.

10 Q. You have the envelope?

11 A. I do.

12 RQ

13 MR. BERNBACH: Okay. I'll call for
14 the production of the envelope.

15 MS. DONNELLY: It's been produced.

16 MR. BERNBACH: It has?

17 MS. DONNELLY: Uhm-hum.

18 Q. So when you got the check a couple of
19 days after June the 4th, whenever you got it,
20 what did you do?

21 A. I had notified her that she was late
22 with her payment I believe.

23 Q. All right. And what you're saying is
24 she had 30 days grace period to make the May 1st
25 payment; is that what you're saying?

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2 A. Correct.

3 Q. And she didn't send it in until the
4 34th day or 33rd day or whatever it is?

5 A. It was postmarked June 4th. I didn't
6 receive it until after that.

7 Q. Okay. So it was your decision to
8 terminate her Cobra coverage at that time?

9 A. Yes, it was.

10 Q. You could have accepted the check
11 even though it was late, couldn't you?

12 A. I had already done the bill.

13 Q. What bill?

14 A. The Aetna bill.

15 Q. You had already paid it?

16 A. I already paid it. I need to pay it
17 before the 1st of the month.

18 Q. All right. And you didn't pay for
19 Ms. Loscalzo; is that what you're saying?

20 A. I hadn't received the check.

21 Q. So you didn't pay for her?

22 A. I'd have to look and see how I
23 handled that, but I'm pretty sure that was the
24 basis of my decision.

25 Q. Well, what I'm asking you is did the

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1 from your answer then that there were other
2 occasions that were reported to you by others on
3 which Ms. Loscalzo showed up late?
4

5 A. Yes.

6 Q. Who reported lateness to you?

7 A. Patty Massa.

8 Q. On how many occasions did Ms. Massa
9 tell you that Ms. Loscalzo arrived late?

10 A. I don't recall.

11 Q. Well, more than 30?

12 A. I don't recall the number. It was a
13 lot.

14 Q. Well, I'm asking you to approximate.
15 20 to 30?

16 A. I rather not guess.

17 Q. I'm not asking you to guess. I'm
18 asking you for your best approximation based on
19 your memory of the number of times that Ms.
20 Massa told you that Ms. Loscalzo came to work
21 late.

22 A. I don't know that she ever gave me a
23 number. She said it was frequently.

24 Q. Oh, okay. Did Miss -- how many times
25 did Ms. Massa report to you that Ms. Loscalzo

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MS. DONNELLY: Objection. You can answer.

A. Anywhere from five minutes to half an hour or more.

Q. And did you reprimand her for being late?

A. I discussed it with her.

Q. Well, you said -- I asked you specifically if you reprimanded her, and you said you discussed it with her, so why don't you tell me what you said to her as best you recall.

A. I don't recall the exact words, but I would assume that I say the same thing that I say to everyone which is can you please try to come to work on time.

Q. You're a very tolerant fella, Mr. Meskunas, you know that? If my secretary came in late almost every day I'd fire her.

A. Good for you.

MS. DONNELLY: Objection. Don't -- don't --

Q. All right. So you wouldn't say she was reprimanded, you just said you would appreciate if she would get there on time,

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A. He would write her up for it several occasions. He's my manager. I trusted his judgment and I took his word for it.

Q. Okay.

A. He's been in the business for over ten years. I think he knows how to do it correctly.

Q. Okay. So what you're telling me you didn't have the personal knowledge of it, you were relying on what Sforza told you?

A. Sometimes I did and sometimes I didn't.

Q. Then tell me what you knew. You know, tell me what you knew personally, okay. I'll ask Sforza what he knew.

A. You know, it was a long time ago. I don't recall exact instances on exact deals.

Q. If you don't remember you don't remember.

Okay. Are there any other instances of poor performance that you can point out to that you know of?

A. Showing up late; showing up -- you know, showing up not ready for work.